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10 *Attorneys for Plaintiff SATA GmbH & Co. KG*

11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 **SATA GmbH & Co. KG, a German**
corporation,

14 **CASE NO.: 2:13-cv-02042-APG-NJK**

15 Plaintiff,

16 v.

17 Wenzhou T&E Industrial Co., Ltd.

18 Defendant.

**ORDER HOLDING DEFENDANT WENZHOU
T&E INDUSTRIAL CO., LTD. IN CONTEMPT
OF COURT**

19 At the request of plaintiff SATA GmbH & Co. KG ("SATA"), I ordered defendant
20 Wenzhou T&E Industrial Co., Ltd. ("T&E") to show cause why it should not be held in contempt
21 for violating my October 26, 2016 Final Judgment. ECF No. 61. Wenzhou did not respond to my
22 order to show cause and it did not appear at the hearing. For the reasons discussed below, and
23 based on the findings and conclusions set forth herein, I hold T&E in contempt of court.

24 **I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY**

25 On November 5, 2013, SATA filed a complaint against T&E alleging that it had
26 unlawfully displayed and offered for sale counterfeit paint spray guns and counterfeit paint spray
27 gun reservoirs that willfully infringed SATA's U.S. trademarks and design patents. ECF No. 1. I
28 granted SATA's Emergency Motion for a Temporary Restraining Order, which T&E did not

1 oppose. ECF No. 10.

2 After T&E failed to respond to the Complaint, SATA obtained a Default against it. ECF
 3 No. 31. On October 22, 2014, I issued a Final Judgment against T&E. ECF No. 51. The Final
 4 Judgment provided statutory compensatory damages for T&E's willful infringement and
 5 attorneys' fees. *Id.* In the Final Judge judgment, I also issued a permanent injunction enjoining,

6 Wenzhou, and its officers, agents, servants, employees, confederates, attorneys,
 7 and any persons acting in concert or participation with any of them including,
 8 without limitation, third parties providing services used in connection with
 9 Wenzhou's operations and websites owned or controlled by Wenzhou (including,
 10 without limitation, the website at <<http://www.teautotools.com>>), including,
 11 Internet service providers ("ISPs"), domain name registries, domain name
 12 registrars, banks and other financial institutions, merchant account providers and
 13 payment processors (such as PayPal, Inc., Western Union), and any other
 14 payment processing service having knowledge of this Order by service or actual
 15 notice ("Restrained Parties") are hereby permanently enjoined and restrained
 16 from:

17 a. Using any reproduction, counterfeit, copy, or colorable imitation of the
 18 SATA Marks in commerce including, without limitation: (i) by selling, offering
 19 for sale, distributing, promoting, or advertising any good or service in connection
 20 with such reproduction, counterfeit, copy, or colorable imitation of the SATA
 21 Marks; (ii) by displaying any reproduction, counterfeit, copy, or colorable
 22 imitation of the SATA Marks on the website accessible through the domain name
 23 or any other website owned or controlled by Wenzhou or that display Wenzhou's
 24 products (collectively, the "Enjoined Websites"); or (iii) by displaying any
 25 reproduction, counterfeit, copy, or colorable imitation of the SATA Marks at any
 26 trade show in the United States, including but not limited to, at any future
 27 Automobile Aftermarket Products Expo ("AAPEX") trade show; and

28 b. Manufacturing, using, selling, offering to sell, or importing into the United
 29 States, portable electronic device cases embodying designs that are the same as or
 30 substantially similar to the designs claimed in U.S. design patents 459,432 S1 and
 31 459,433 S1, including, without limitation, by: (i) offering to sell and selling such
 32 products to individuals or companies in the United States through the Enjoined
 33 Websites or otherwise; or (ii) offering to sell or selling such products at any trade
 34 show in the United States, including, but not limited to, at any future AAPEX
 35 show; and

36 ECF No. 51, p. 2.

37 On November 2, 2016, SATA discovered that T&E was again unlawfully displaying and
 38 offering for sale a counterfeit paint spray gun that infringed upon SATA's trademarks and design
 39 patents in violation of the Final Judgment. SATA also uncovered marketing materials containing
 40

1 images of counterfeit paint spray guns. SATA reviewed T&E's website
2 (<http://www.teautotools.com>), which is expressly mentioned and enjoined in the Final Judgment.
3 ECF No. 51. SATA discovered that the enjoined website is unlawfully displaying and offering
4 for sale a counterfeit paint spray gun that violates the Final Judgment and infringes SATA's U.S.
5 trademarks and patents.

6 As a result, SATA filed its Application for an Order to Show Cause as to why T&E
7 should not be held in Contempt of Court. ECF No. 58. I ordered T&E to appear and show cause.
8 ECF No. 61. T&E did not file an opposition to SATA's Application, did not respond to my
9 Order, and did not appear at the February 9, 2017 show cause hearing. ECF No. 65.

10 **II. FINDINGS OF FACT AND CONCLUSION OF LAW**

- 11 1. The Factual Background and Procedural History above is hereby incorporated in its
12 entirety into these findings of fact and conclusions of law.
- 13 2. T&E violated my Order (ECF No. 61) to appear before and show cause why it should
14 not be held in contempt of court for violating the permanent injunction.
- 15 3. T&E offered for sale several products that infringe upon SATA's trademark rights in
16 U.S. Trademark Registration Nos. 2,770,801; 2,793,583; 3,072,417; and 2,774,593,
17 and SATA's patent rights in United States Patent Nos. USD 459,432, USD 459,433,
18 and USD 644,716.
- 19 4. T&E's conduct has at all times been willful, intentional, malicious and in blatant
20 disregard for SATA's Intellectual Property and my Orders, including the permanent
21 injunction. T&E at all times was aware that its acts constituted willful infringement.
- 22 5. T&E's recent conduct is especially egregious given that this is the second-time it has
23 infringed upon the same trademarks and patents at issue in this action.
- 24 6. T&E's conduct constitutes a violation of the permanent injunction. ECF No. 51.
- 25 7. T&E's goods contained spurious designations that are identical with, or substantially
26 indistinguishable from, SATA's federally registered marks.

8. T&E failed to show cause why it should not be held in contempt of court for violating the permanent injunction.

9. Pursuant to my inherent powers to issue compensatory sanctions, SATA is entitled to damages for T&E's contempt. 15 U.S.C. § 1117(c) allows for statutory damages of up to \$2,000,000.00 per counterfeit mark per type of goods or services sold, offered for sale, or distributed, when the infringement was committed willfully.

10. In awarding damages set forth in the Final Judgment (ECF No. 51), I found that T&E's conduct was willful; I awarded damages under 15 U.S.C. § 1117(c) in the amount of \$2,000,000.00. ECF Nos. 42, and 51.

11. Based on the papers and pleadings on file in this action, and the findings herein, I find that T&E acted willfully and deliberately in violating the Permeant Injunction with full knowledge of the wrongful nature of its actions. I therefore award SATA damages and sanctions in the amount of \$1,000,000.00 for each of the fifteen violations, for a total amount of \$15,000,000.00.

12. Pursuant to my inherent powers and 15 U.S.C. 1117(a), SATA is entitled to an award of attorney fees and costs. Based upon the supplemental declaration of SATA's counsel, I award fees of \$11,951.34. SATA's total award is \$15,011,951.34.

IT IS HEREBY ORDERED that defendant Wenzhou T&E Industrial Co., Ltd. is in contempt for violating my October 26, 2016 Final Judgment. Defendant Wenzhou T&E Industrial Co., Ltd. is ordered to pay SATA \$15,011,951.34.

IT IS FURTHER ORDERED that the goods seized by SATA during the 2016 SEMA tradeshow lack commercial value and make a sale by auction impractical. Pursuant to NRS 21.230, the goods shall be applied to SATA's debt, SATA shall deduct \$15,000.00 from the total damages owed by T&E, and SATA shall file a partial satisfaction of judgment indicating that.

C
UNITED STATES DISTRICT JUDGE
Entered this 24th day of February, 2017